

Amendment No. 1 to SB2000

Bell
Signature of Sponsor

AMEND Senate Bill No. 2000

House Bill No. 2040*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 10, Part 4, is amended by adding the following as a new section:

(a) As used in this section, "contract service provider":

(1) Means a private entity that enters into a written contract or agreement with a government entity of this state to provide supervision, counseling, or collection services for offenders using an electronic monitoring device; and

(2) Does not include an ignition interlock provider.

(b) A contract service provider must:

(1) Have a written contract with the government entity containing the following:

(A) A description of the responsibilities of the contract service provider and the services to be rendered;

(B) Requirements for bonding of staff;

(C) Staffing levels and standards of supervision, including the type and frequency of contacts;

(D) Collection procedures for handling court-ordered fines, fees, and restitution;

(E) Procedures for handling indigent offenders;

(F) Reporting procedures and circumstances for violations;

(G) Reporting and recordkeeping procedures;

(H) Default and contract termination procedures; and

(I) A schedule listing the fees and charges assessed to the offenders supervised by the contract service provider; and

(2) Maintain general liability insurance coverage of at least one million dollars (\$1,000,000) at all times while providing contract services and provide the government entity with written documentation of the insurance coverage.

(c) Responsibilities of a contract service provider must include:

(1) Providing services for the supervision, counseling, and collection of court-ordered fines of offenders assigned to the contract service provider by the court;

(2) Training all employees who have contact with offenders to provide accurate information regarding the offender's case and to maintain confidentiality;

(3) Obtaining a criminal history records check on every employee prior to the employee beginning employment;

(4) Maintaining an employee folder for every employee containing the job application, signed confidentiality statements as required by this section, training records, criminal justice experience, documentation of education, and the employee's criminal history record check information;

(5) Prohibiting the solicitation of offenders for products or services that present a conflict of interest;

(6) Ensuring the quality of case management and execution of all court orders in a professional manner;

(7) Being responsible for the actions of all employees carried out within the scope of employment;

(8) Being accountable to the government entity and the court in reporting the status of cases assigned to the contract service provider for supervision;

(9) Notifying the governing body in writing within ten (10) days of an

owner, director, or employee being charged with, arrested for, entering a plea of guilty or nolo contendere to, or being convicted of a misdemeanor offense involving moral turpitude or a felony offense; and

(10) Employing a person who is responsible for the direct supervision of caseworkers and who has a minimum of five (5) years of experience in corrections, parole, or probation services.

(d) Each director of a contract service provider must:

(1) Have a minimum of five (5) years of experience in corrections, parole, or probation services;

(2) Sign a confidentiality statement agreeing to hold the identity of electronic monitoring device offenders and offender records confidential, and the statement must be maintained in the director's personnel file;

(3) Be of good moral character and not have been convicted of or pled guilty or nolo contendere to a misdemeanor offense involving moral turpitude, or to a felony offense within the last ten (10) years unless a pardon has been obtained, or have an outstanding warrant for the employee's arrest;

(4) Submit to a criminal record history check prior to beginning employment. The contract service provider shall keep a copy of the director's criminal history records check in the director's personnel file; and

(5) Successfully complete orientation training within six (6) months of beginning operations and relevant continuing education courses each year as required by the governing body.

(e) A person employed as a caseworker with a contract service provider must:

(1) Be at least twenty-one (21) years of age;

(2) Have completed at least a standard two-year course of study, or have at least four (4) years of criminal justice experience at the time of employment,

and documentation of education and criminal justice experience must be maintained in the caseworker's personnel file;

(3) Complete appropriate training within six (6) months of beginning employment duties and annual in-service training as required by this section;

(4) Be of good moral character and not have been convicted of or pled guilty or nolo contendere to a misdemeanor offense involving moral turpitude, or to a felony offense within the last ten (10) years unless a pardon has been obtained, or have an outstanding warrant for the employee's arrest;

(5) Submit to a criminal history records check prior to beginning employment. The contract service provider shall keep a copy of the employee's criminal history records check in the employee's personnel file;

(6) Sign a confidentiality statement agreeing to hold the identity of offenders and offender records confidential; and

(7) Sign a statement that is cosigned by the contract service provider director and indicates that the caseworker has received an orientation on the policies, procedures, and guidelines relevant to the caseworker's job duties.

(f) An employee other than a caseworker may assist a caseworker with case-related administrative duties, but shall not have decision-making authority with respect to offenders. An employee who provides services to offenders, who has access to contract service provider records, who has telephone or face-to-face contact with offenders, or who has access to offender data must meet the following requirements:

(1) Be at least twenty-one (21) years of age;

(2) Sign a confidentiality statement agreeing to hold the identity of offenders and offender records confidential;

(3) Sign a statement that is cosigned by the contract service provider director and indicates that the employee has received an orientation on the policies, procedures, and guidelines relevant to the employee's job duties;

(4) Be of good moral character and not have been convicted of a misdemeanor offense involving moral turpitude or of a felony offense within the last ten (10) years, unless a pardon has been obtained, or have an outstanding warrant for the employee's arrest;

(5) Submit to a criminal history records check prior to beginning employment. The contract service provider shall keep a copy of the employee's criminal history records check in the employee's personnel file;

(6) Have at least a high school diploma or an equivalent diploma; and

(7) Complete appropriate training within six (6) months of beginning employment duties and annual in-service training as required by this section.

(g) Contract service providers must provide annual training to all employees consisting of a minimum of forty (40) hours of instruction, including:

(1) Orientation to electronic monitoring;

(2) An overview of types of equipment used for electronic monitoring;

(3) Training related to an overview of the criminal justice system;

(4) Instruction on recognizing and reading court orders;

(5) Public relations;

(6) Media relations;

(7) Family and offender orientation;

(8) The importance of recordkeeping;

(9) Data entry and familiarization with forms;

(10) Installing and troubleshooting equipment;

(11) Staff and victim safety issues; and

(12) Relevant legal issues.

(h) All contract service providers shall provide the contracting government entity with a report in such detail and at such time intervals as required by the contracting government entity and the court.

(i)

(1) All records of the contract service provider must be maintained in a secure and confidential manner.

(2) Each contract service provider shall maintain the following records and must make the records available and accessible for inspection by the contracting government entity and the court:

(A) Written contracts or agreements for services;

(B) Court orders for all offenders assigned for supervision;

(C) Accounting ledgers and related documents;

(D) Payment receipts issued to offenders for all funds received;

(E) Offender case history and management reports and documents; and

(F) Other documents pertaining to the case management of each offender assigned for supervision.

(3) Each contract service provider must make all records, files, and other documentation pertaining to an individual offender available to a law enforcement agency requesting the records in writing if the offender is the subject of an investigation or a potential witness in an active case.

(j) A contract service provider shall not:

(1) Assess, collect, or disburse any funds pertaining to the collection of court-ordered monies, except by written order of the court;

(2) Offer any program service or component for an additional fee unless the fee charge has been ordered by the court; or

(3) Assert or represent that it is owned, operated, or endorsed by this state or any political subdivision of this state.

(k) If a contract service provider becomes associated with another corporation, enterprise, or agency, whether through acquisition, merger, sale, or other transaction,

then the contract service provider shall notify the contracting government entity and the court in writing within ten (10) days of the effective date of the transaction. The written notice must contain the names, addresses, and telephone numbers of all primary parties, the effective date of the merger, sale, or consolidation, and the nature of the business relationship of the new contract service provider. A violation of this subsection (k) may result in a breach of contract for all services rendered.

(l) The director of the contract service provider must immediately notify the contracting government entity and the court in writing of any change in the contract service provider's location, address, or telephone number.

(m) The following persons may not own, operate, direct, or serve as an employee or agent of a contract service provider:

(1) A person for whom owning, operating, directing, or serving as an employee or agent of the contract service provider would pose an actual, potential, or apparent conflict of interest due to the existence of a fiduciary, business, or personal relationship with any offender, or due to the existence of any other relationship that would place the owner, operator, employee, or agent in a position to exert undue influence on, exploit, take undue advantage of, or breach the confidentiality of any offender; or

(2) A judge, public probation or parole officer or employee, court employee, detention or correctional agency employee, law enforcement agency employee, or any spouse thereof, if the contract service provider's services are provided within the same jurisdiction served by the judge, public or private probation office, court, detention or correctional agency, or law enforcement agency.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.